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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,389	09/11/2003	Abtar Singh	5264-003COB	6934

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HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. BOX 828  
BLOOMFIELD HILLS, MI 48303

EXAMINER


BARBEE, MANUEL L

ART UNIT PAPER NUMBER

2857

DATE MAILED: 07/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/660,389	Applicant(s) SINGH ET AL.	
	Examiner Manuel L. Barbee	Art Unit 2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-22 is/are allowed.
- 6) ☒ Claim(s) 23, 26-28, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 24, 25, 29 and 30 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Terminal Disclaimer***

1. The terminal disclaimer filed on 29 June 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of 6,668,240 has been reviewed and is accepted. The terminal disclaimer has been recorded.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 23, 26-28, 31 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Regennitter et al. (US Patent No. 4,278,841) in view of Pellerin (US Patent No. 6,411,916).

With regard to transmitting information from a refrigeration system at a retail location to a processing center using a communication network, as shown in claims 23 and 28, Regennitter et al. teach a plurality of detector units in frozen food display cases for sensing the air temperature and sending the information to a receiver unit remote from the detector unit which can send an alarm using a telephone (col. 1, lines 64 - col. 2, line 60; col. 3, line 48 - col. 4, line 63). With regard to determining a food product index for a plurality of product types, as shown in claims 23 and 28, Regennitter et al. teach detecting temperature and counting the number of "too hot" signals from the

temperature sensor (col. 3, lines 55-65; col. 6, lines 38-68). The count of the "too hot" signals is the food product index since the condition of the food depends on the temperature and how long the temperature continues. While Regennitter et al. teach a remote receiver, Regennitter et al. do not teach determining the food product index at the remote location, as shown in claims 23 and 28.

Pellerin teaches a data management system that receives temperature information and uses it for logical decisions (col. 1, line 46 - col. 2, line 25). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the temperature monitor system, as taught by Regennitter et al. to include processing temperature at a remote location, as taught by Pellerin, because then processing hardware would not have been necessary in the mobile refrigeration container.

With regard to initiating an alarm if the food product index exceeds a predetermined level, as shown in claim 26 and 31, and initiating the alarm at either the management center or the remote location, as shown in claims 27 and 32, Regennitter et al. teach initiating an alarm at an alarm unit and sending the alarm using the telephone (col. 3, lines 55-65; col. 4, lines 43-63).

***Allowable Subject Matter***

4. Claims 24, 25, 29 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 1-22 are allowed.

6. The following is a statement of reasons for the indication of allowable subject matter: Neither O'Brien nor Chiu et al. teach a system or method that includes determining a food product index as a function of a frequency and severity of product-temperature condition information obtained from a monitored location through a communication network.

7. Applicant's arguments filed 29 June 2004 have been fully considered but they are not persuasive. Applicant states that Regennitter et al. fails to disclose a food product index. Applicant further offers a definition of "index" and states that the "condition of the food" does not meet the claim limitations for a food product index. In the previous Office Action, the Examiner relied upon the teaching of measuring temperature to meet the food product index limitation. Although possibly stated unclearly, the reference to the condition of the food, was meant to link temperature to the food condition and therefore make it clear that temperature was a food product index. However, given the definition of index quote in Applicant's arguments, the Examiner now relies on the count of "too hot signals" to meet the food product index limitation. The temperature is periodically monitored, so there is a series of observations. The count is a number and it is used as a indicator or measure of a condition of the food product in the frozen food case. The number of "too hot" counts is a food product index.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel L. Barbee whose telephone number is 571-272-2212. The examiner can normally be reached on Monday-Friday from 8-4:30.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mlb

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800